

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

SHEMEKA IBRAHIM,)
Plaintiff,)
v.) **Case No. 3:12-cv-1019**
MURFREESBORO MEDICAL CLINIC, P.A.,)
DR. ANDREW H. FORD,)
SLEEP MEDICINE OF MIDDLE TENNESSEE, and)
DR. KELLY A. CARDEN,)
Defendants.)

ORDER

This Court entered an order dismissing the complaint for lack of subject-matter jurisdiction on October 16, 2012 (ECF No. 4), and subsequently denied as moot plaintiff Shemeka Ibrahim's motion for leave to file an amended complaint.

The plaintiff has now filed a document styled "Motion/Complaint for an Appeal," in which the plaintiff appears to request permission to transfer her case to the "appeal court in Nashville, Tennessee" and to "grant [her] appeal and allow [her] to forward this case to the State of Tennessee Appeals Court." (ECF No. 14, at 1.) She acknowledges in this filing that "[l]awsuits alleging medical malpractice are generally filed in a state trial court," but she also claims that "[f]ederal courts may also be appropriate for filing malpractice claims where a complete diversity of state citizenship exists . . . or if a federal question is invoked." (*Id.*)

Insofar as the plaintiff seeks transfer of her case to the Tennessee Court of Appeals, such motion is **DENIED**, because this Court has no power to transfer an appeal to the state appellate court. To pursue her claims in the Tennessee Court of Appeals, the plaintiff must first file an action in the Tennessee state trial court. Appeals from this Court are to the United States Court of Appeals for the Sixth Circuit, located in Cincinnati, Ohio.

Because the plaintiff's motion may be construed as a notice of appeal, the Clerk of Court is **DIRECTED** to provide notice thereof to the Sixth Circuit Court of Appeals.

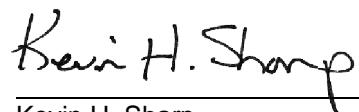
The plaintiff was permitted to file her complaint *in forma pauperis*. Pursuant to Rule 24 of the Federal Rules of Appellate Procedure, “a party who was permitted to proceed *in forma pauperis* in the district-court action . . . may proceed on appeal *in forma pauperis* without further authorization, unless . . . the district court . . . certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed *in forma pauperis* and states in writing its reasons for the certification or finding.” In accordance with Rule 24, the Court **HEREBY CERTIFIES** that an appeal of the dismissal of this case would not be taken in good faith. The Court lacks jurisdiction of the plaintiff’s claims because they are grounded entirely in state law, and are asserted against defendants who, like the plaintiff, reside in Tennessee. In short, neither federal-question nor diversity jurisdiction exists.

Because the present appeal is not taken in good faith, the plaintiff may not pursue an appeal *in forma pauperis* unless she seeks and obtains permission directly from the Sixth Circuit to proceed as a pauper. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3) and (a)(5). Accordingly, if the plaintiff seeks to pursue an appeal in the Sixth Circuit Court of Appeals, she **MUST** either submit the full \$455 appellate filing fee to the Clerk of this Court, or file a motion to proceed *in forma pauperis* directly in the Court of Appeals for the Sixth Circuit, within 30 days of service of this order. Fed. R. App. P. 24(a)(5). The motion must comply with Rule 24(a)(1) of the Federal Rules of Appellate Procedure, and must be filed at the following address: Sixth Circuit Court of Appeals, Clerk’s Office, Room 540, Potter Stewart U.S. Courthouse, 100 E. Fifth Street, Cincinnati, OH 45202. The plaintiff will be permitted to appeal to the Sixth Circuit without paying the appellate filing fee only if the Sixth Circuit grants the motion.

The plaintiff is forewarned that failure either to submit the full \$455 filing fee or to obtain leave directly from the Sixth Circuit Court of Appeals to proceed on appeal *in forma pauperis* will result in dismissal of the appeal.

The Clerk of Court is instructed for forward a copy of this order to the Clerk for the Sixth Circuit Court of Appeals.

It is so **ORDERED**.



Kevin H. Sharp
United States District Judge